

# House File 2128 - Introduced

HOUSE FILE 2128  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 501)

## A BILL FOR

1 An Act relating to probate and the administration of small  
2 estates and including applicability provisions.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 635.1, Code 2018, is amended to read as  
2 follows:

3 **635.1 When applicable.**

4 When the gross value of the probate assets of a decedent  
5 subject to the jurisdiction of this state does not exceed ~~one~~  
6 two hundred thousand dollars, and upon a petition as provided  
7 in [section 635.2](#) of an authorized petitioner in accordance with  
8 sections 633.227 and [633.228](#), or section 633.290, subsection  
9 1, paragraph "a" or "b", the clerk shall issue letters of  
10 appointment for administration to the proposed personal  
11 representative named in the petition, if qualified to serve  
12 pursuant to [section 633.63](#) or upon court order pursuant to  
13 section 633.64. Unless otherwise provided in [this chapter](#), the  
14 provisions of [chapter 633](#) apply to an estate probated pursuant  
15 to [this chapter](#).

16 Sec. 2. Section 635.7, Code 2018, is amended to read as  
17 follows:

18 **635.7 Report and inventory — value and conversion.**

19 1. The personal representative is required to file the  
20 report and inventory for which provision is made in section  
21 633.361, including all probate and nonprobate assets. This  
22 chapter does not exempt the personal representative from  
23 complying with the requirements of [section 422.27](#), [450.22](#),  
24 [450.58](#), [633.480](#), or [633.481](#), and the administration of an  
25 estate whether converted to or from a small estate shall be  
26 considered one proceeding pursuant to [section 633.330](#).

27 2. The report and inventory shall show the gross value of  
28 probate assets subject to the jurisdiction of this state.

29 3. If the gross value of probate assets subject to the  
30 jurisdiction of this state exceeds the amount permitted  
31 for a small estate under [section 635.1](#), the estate shall be  
32 administered as provided in [chapter 633](#).

33 4. If the report and inventory in an estate probated  
34 pursuant to [chapter 633](#) shows the gross value of the probate  
35 assets subject to the jurisdiction of this state does not

1 exceed the amount permitted under section 635.1, the estate  
2 shall be administered as a small estate upon the filing of a  
3 statement by the personal representative that the estate is a  
4 small estate.

5 5. If the personal representative files a statement to  
6 convert the estate administration to or from a small estate  
7 based on the gross value of probate assets subject to the  
8 jurisdiction of this state, the clerk shall make the conversion  
9 without an order of the court.

10 ~~5.~~ 6. Other interested parties may apply to convert  
11 proceedings from a small estate to a regular estate or from a  
12 regular estate to a small estate which the court may grant only  
13 upon good cause shown with approval from the court.

14 Sec. 3. Section 635.8, Code 2018, is amended to read as  
15 follows:

16 **635.8 Closing by sworn statement.**

17 1. The personal representative shall file with the court  
18 a closing statement and proof of service thereof to all  
19 interested parties within a reasonable time from the date of  
20 issuance of the letters of appointment. The closing statement  
21 shall be verified or affirmed under penalty of perjury  
22 ~~stating and shall include~~ all of the following statements and  
23 information:

24 a. To the best knowledge of the personal representative, the  
25 gross value of the probate assets subject to the jurisdiction  
26 of this state does not exceed the amount permitted under  
27 section 635.1.

28 b. The estate has been fully administered and will be  
29 distributed to persons entitled thereto if no objection is  
30 filed to the closing statement and the accounting and proposed  
31 distribution within thirty days after service thereof.

32 c. An accounting and proposed distribution of the estate  
33 including an accurate description of all the real estate of  
34 which the decedent died seized, stating the nature and extent  
35 of the interest in the real estate and its disposition.

1 ~~d. A copy of the closing statement and a notice of an~~  
2 ~~opportunity to object to and request a hearing has been sent,~~  
3 ~~as provided in section 633.40, to all interested parties~~ Notice  
4 to all interested parties that the parties have thirty days  
5 from the date of service of the closing statement in which to  
6 request a hearing by filing an objection with the court.

7 ~~e. A statement as to whether or not that all statutory~~  
8 ~~requirements pertaining to taxes have been complied with,~~  
9 ~~including whether federal estate tax due has been paid, whether~~  
10 ~~a lien continues to exist for any federal estate tax, and~~  
11 ~~whether inheritance tax was paid or a tax return was filed in~~  
12 ~~this state.~~

13 f. A statement that all statutory requirements pertaining to  
14 claims have been complied with and a statement describing the  
15 resolution of all claims, including charges, and whether a lien  
16 continues to exist on any property as security for any claim.

17 ~~f.~~ g. The amount of fees to be paid to the personal  
18 representative and the personal representative's attorney  
19 with the appropriate documentation showing compliance with  
20 subsection 4.

21 2. If no actions or proceedings involving the estate are  
22 pending in the court thirty days after service of the closing  
23 statement to all interested parties as provided in section  
24 633.40, the estate shall be distributed according to the  
25 closing statement.

26 3. The estate clerk shall close the estate without order of  
27 the court and the personal representative shall be discharged  
28 upon the earlier of either of the following:

29 ~~a. The filing of an affidavit of mailing or other proof~~  
30 ~~of service of the closing statement and a statement of asset~~  
31 ~~distribution by the personal representative~~ Filing an affidavit  
32 of mailing or other proof of service of the closing statement  
33 and filing proof of asset distribution, including receipts and  
34 other evidence of disbursement.

35 b. Sixty days after the filing of the closing statement and

1 an affidavit of mailing or other proof of service thereof.

2 4. The fees for the personal representative shall not  
3 exceed three percent of the gross value of the probate assets  
4 of the estate, unless the personal representative itemizes  
5 the personal representative's services to the estate. The  
6 personal representative's attorney shall be paid reasonable  
7 fees as approved by the court or as agreed to in writing by  
8 the personal representative and such writing shall be executed  
9 by the time of filing the probate inventory. All interested  
10 parties shall have the opportunity to object and request a  
11 hearing as to all fees reported in the closing statement.

12 5. If a closing statement is not filed within twelve  
13 months of the date of issuance of a letter of appointment, an  
14 interlocutory report shall be filed within such time period.  
15 Such report shall be provided to all interested parties at  
16 least once every six months until the closing statement has  
17 been filed unless excused by the court for good cause shown.  
18 The provisions of [section 633.473](#) requiring final settlement  
19 within three years shall apply to an estate probated pursuant  
20 to [this chapter](#). A closing statement filed under [this section](#)  
21 has the same effect as final settlement of the estate under  
22 chapter 633.

23 Sec. 4. APPLICABILITY. The following applies July 1,  
24 2018, to estates opened under chapter 635 or converted from  
25 administration under chapter 633 on or after July 1, 2018:

26 The section of this Act amending section 635.1.

27 Sec. 5. APPLICABILITY. The following applies July 1, 2018,  
28 to estates being probated under chapter 635 on or after July  
29 1, 2018:

30 The sections of this Act amending sections 635.7 and 635.8.

31 EXPLANATION

32 The inclusion of this explanation does not constitute agreement with  
33 the explanation's substance by the members of the general assembly.

34 This bill relates to probate and the administration of small  
35 estates.

1 The bill amends Code section 635.1 regarding the  
2 applicability of Code chapter 635 to estates opened or  
3 converted from administration under Code chapter 633 to include  
4 estates as large as \$200,000, whereas currently the limit is  
5 \$100,000. This portion of the bill applies July 1, 2018,  
6 to estates opened under Code chapter 635 or converted from  
7 administration under Code chapter 633 on or after July 1, 2018.

8 The bill amends Code section 635.7 (report and inventory  
9 — value and conversion). The bill provides that if the  
10 personal representative files a statement to convert the estate  
11 administration to or from a small estate based on the gross  
12 value of probate assets subject to the jurisdiction of this  
13 state, the clerk shall make the conversion without an order of  
14 the court. This portion of the bill applies July 1, 2018, to  
15 estates being probated under Code chapter 635 on or after July  
16 1, 2018.

17 The bill amends Code section 635.8 (closing by sworn  
18 statement). The bill requires the personal representative to  
19 file with the court a closing statement and proof of service  
20 thereof to all interested parties. The bill requires the  
21 following statements and informations to be included in the  
22 closing statement: notice to all interested parties that the  
23 parties have 30 days from the date of service of the closing  
24 statement in which to request a hearing by filing an objection  
25 with the court (replacing a reference to the notice procedures  
26 in Code section 633.40); a statement that all statutory  
27 requirements pertaining to claims have been complied with and a  
28 statement describing the resolution of all claims, including  
29 charges, and whether a lien continues to exist on any property  
30 as security for any claim. The bill amends Code section  
31 635.8(2) by requiring service of the closing statement "to all  
32 interested parties as provided in Code section 633.40", prior  
33 to distribution of the estate. The bill amends Code section  
34 635.8(3) to require the clerk to close the estate without order  
35 of the court. Finally, as one of the two options to close the

1 estate, Code section 635.8(3)(a) is amended to specify that  
2 receipts and other evidence of disbursement are required to be  
3 included as proof of asset distribution. This portion of the  
4 bill applies July 1, 2018, to estates being probated under Code  
5 chapter 635 on or after July 1, 2018.